

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 358

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Offered April 17, 2007.

Senate Substitute adopted, April 17, 2007.

Taken up for Perfection April 17, 2007. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1534S.02P

## AN ACT

To repeal section 301.640, RSMo, and to enact in lieu thereof one new section relating to the release of a lienholder's rights upon the satisfaction of a lien or encumbrance, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 301.640, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 301.640, to read as follows:  
301.640. 1. [Upon] **Within five business days after** the satisfaction  
2 of any lien or encumbrance of a motor vehicle or trailer, the lienholder shall[,  
3 within ten business days] release the lien or encumbrance on the certificate or a  
4 separate document and mail or deliver the certificate or a separate document to  
5 the owner or any person who delivers to the lienholder an authorization from the  
6 owner to receive the certificate or such documentation. The release on the  
7 certificate or separate document shall be notarized. Each perfected subordinate  
8 lienholder, if any, shall release such lien or encumbrance as provided in this  
9 section for the first lienholder. The owner may cause the certificate to be mailed  
10 or delivered to the director of revenue, who shall issue a new certificate of  
11 ownership upon application and payment of the required fee. A lien or  
12 encumbrance shall be satisfied for the purposes of this section when a lienholder  
13 receives payment in full in the form of certified funds, as defined in section  
14 381.410, RSMo, **or when the lienholder receives payment in full**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 **electronically or by way of electronic funds transfer, whichever first**  
16 **occurs.**

17         2. If the electronic certificate of ownership is in the possession of the  
18 director of revenue, the lienholder shall notify the director within [ten] **five**  
19 business days [of] **after** any release of a lien and provide the director with the  
20 most current address of the owner **or any person who delivers to the**  
21 **lienholder an authorization from the owner to receive the certificate**  
22 **or such documentation.** The director shall note such release on the electronic  
23 certificate and if no other lien exists the director shall mail or deliver the  
24 certificate free of any lien to the owner **or any person who has delivered to**  
25 **the lienholder an authorization from the owner to receive the**  
26 **certificate or such documentation from the director.**

27         3. If the purchase price of a motor vehicle or trailer did not exceed six  
28 thousand dollars at the time of purchase, a lien or encumbrance which was not  
29 perfected by a motor vehicle financing corporation whose net worth exceeds one  
30 hundred million dollars, or a depository institution, shall be considered satisfied  
31 within six years from the date the lien or encumbrance was originally perfected  
32 unless a new lien or encumbrance has been perfected as provided in section  
33 301.600. This subsection does not apply to motor vehicles or trailers for which  
34 the certificate of ownership has recorded in the second lienholder portion the  
35 words "subject to future advances".

36         4. Any lienholder who fails to comply **timely** with subsection 1 or 2 of this  
37 section shall pay to the person or persons satisfying the lien or encumbrance  
38 [twenty-five dollars for the first ten business days after expiration of the time  
39 period prescribed in subsection 1 or 2 of this section, and such payment shall  
40 double for each ten days thereafter in which there is continued noncompliance,  
41 up to a maximum of five hundred dollars for each lien] **liquidated damages up**  
42 **to a maximum of two thousand five hundred dollars for each**  
43 **lien. Liquidated damages shall be five hundred dollars if the lienholder**  
44 **does not comply within five business days after satisfaction of the lien**  
45 **or encumbrance. Liquidated damages shall be one thousand dollars if**  
46 **the lienholder does not comply within ten business days after**  
47 **satisfaction of the lien or encumbrance. Liquidated damages shall be**  
48 **two thousand dollars if the lienholder does not comply within fifteen**  
49 **business days after satisfaction of the lien or encumbrance. Liquidated**  
50 **damages shall be two thousand five hundred dollars if the lienholder**

51 **does not comply within twenty business days after satisfaction of the**  
52 **lien or encumbrance.** If delivery of the certificate or other lien release is made  
53 by mail, the delivery date is the date of the postmark for purposes of this  
54 subsection. **In computing any period of time prescribed or allowed by**  
55 **this section, the day of the act or event after which the designated**  
56 **period of time begins to run is not to be counted. However, the last day**  
57 **of the period so computed is to be included, unless it is a Saturday,**  
58 **Sunday, or a legal holiday, in which event the period runs until the end**  
59 **of the next day that is not a Saturday, Sunday, or legal holiday.**

60         5. Any person who knowingly and intentionally sends in a separate  
61 document releasing a lien of another without authority to do so shall be guilty of  
62 a class C felony.

✓

Bill

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